

UNITED STATES DISTRICT COURT
DISTRICT OF NEW HAMPSHIRE

Arthur O. Phaneuf, et al

v.

Civil No. 12-cv-160-SM

NH Board of Registration
of Funeral Directors
and Embalmers, et al

NOTICE OF RULING / ORDER

Re: Document No. 2, MOTION for Preliminary Injunction

Ruling: It is not clear that the motion for preliminary injunction (document no. 2) is meant to seek a temporary restraining order. I do not construe the pleading as seeking a TRO, but even if it does, it fails to meet the requirements of Fed. R. Civ. P. 65(b), and so to that extent it is denied without prejudice. To the extent the pleading seeks preliminary and permanent injunctive relief, it appears to run afoul of clear precedent requiring federal

abstention, an issue plaintiff should be prepared to address at an early stage. See e.g. *Brooks v. New Hampshire Supreme Court*, 80 F.3d 633 (1st Cir. 1996); *Maymo-Melendez v. Alvarez-Ramirez*, 364 F. 3d 27 (1st Cir. 2004); *Esso Standard Oil Co. v. Cotto*, 389 F.3d 212 (1st Cir 2004).

Date: April 26, 2012

/s/ Steven J. McAuliffe
United States District
Court Judge

cc: Frank B. Mesmer, Jr., Esq.